IN THE UNITED STATES DISTRICT COURT DISTRICT OF SOUTH CAROLINA

Anthony L. Mann,)	
Plaintiff,) Civil Action N	o. 0:11-2232
vs.)	
Lt. C. Failey et al.,	ORDER	
))	

Plaintiff in this action has asserted various claims against Defendants for deprivation of rights under the Eighth Amendment of the United States Constitution. This Court dismissed this action by way of summary judgment and Plaintiff timely filed an appeal. The Fourth Circuit appointed counsel for Plaintiff for purposes of appellate review. By order dated July 17, 2014, the Fourth Circuit reversed in part and affirmed in part this Court's order and remanded the case for further action by this Court. *Mann v. Failey*, No. 13-6446, 2014 WL 3511878 (4th Cir. July 1, 2014) (unpublished opinion).

In reviewing Plaintiff's claims, it appears to the Court that this *pro se* litigant has colorable claims but lacks the capacity to properly present such claims. *Zuniga v. Effler*, 2012 WL 2354464 (4th Cir. 2012). In such a circumstance, the Court has the discretion to appoint counsel for the *pro se* litigant if the party is unable to afford counsel. 28 U.S.C. § 1915(e). The Court finds that appointment of counsel is proper under these circumstances and appoints Xavier Starkes of the Richland County Bar and Stanley Myers of the Lexington County Bar as counsel for Plaintiff.

AND IT IS SO ORDERED.

Richard Mark Gergel

United States District Court

October <u>1</u>, 2014 Charleston, South Carolina